

### **REMARKS**

This is in response to the Decision on Appeal mailed 11/28/2007. This response should obviate outstanding issues and make the remaining claims allowable. Reconsideration of this application is respectfully requested in view of this response.

### **STATUS OF CLAIMS**

Claims 1-32 are pending.

Claims 9-32 were previously withdrawn in response to a restriction requirement.

Claims 1-8 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over non-patent literature entitled, “eMedia-IT and Lloyds of London Provide Global Insurance for Digital Content,” by PR Newswire, hereafter “Newswire” in view of Stefik (U.S. Patent 6,708,157).

### **REJECTIONS UNDER 35 U.S.C. § 101**

Claims 1-8 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicants have amended the pending claims to recite an article of manufacture housing computer readable program code that is executed in conjunction with a computer to insure purchased distributed digital content. Since pending claims 1-8 have been rewritten as an article of manufacture, which falls under statutory subject matter as per MPEP rules, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. §101 rejection.

**REJECTIONS UNDER 35 U.S.C. § 103(a)**

Claims 1-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over non-patent literature entitled, “eMedia-IT and Lloyds of London Provide Global Insurance for Digital Content,” by PR Newswire, hereafter “Newswire”, in view of Stefik (U.S. Patent 6,708,157).

To be properly rejected under 35 U.S.C. §103(a), the cited references (i.e., Newswire and/or Stefik) need to teach or render obvious each and every features of the pending claims. Applicants respectfully assert that Newswire in combination with Stefik fail to teach many of the features of the pending claims.

The Board of Patent Appeals and Interferences’ response of 11/28/2007, specifically states that the previously pending claims did not explicitly recite “a step for providing or retrieving the *same* or *original* purchased content.” The Board of Patent Appeals and Interferences’ response of 11/28/2007, also states that the previously pending claims merely teach that one had to be enabled to receive a copy of the purchased digital content.

To remedy this point, Applicants have amended the pending claims to recite computer readable program code “transmitting a new copy of *originally* purchased digital content in (a) to said consumer via said communication networks”.

Based on these clarifying amendments, Applicants respectfully assert that pending claims 1-8 cannot be anticipated or rendered obvious by Newswire, as Newswire, by the statement of

the Board of Patent Appeals and Interferences, fails to teach the retrieval of the *same* or *originally* purchased content.

Stefik, as the Board of the Patent Appeals and Interferences correctly notes, fails to mention insurance and also fails to teach the feature of “transmitting a new copy of *originally* purchased digital content in (a) to said consumer via said communication networks”.

Absent such a teaching, Newswire in combination with Stefik fail to teach the features of Applicants’ pending claims 1-8.

If the Examiner still feels that Newswire or Stefik teach the specific recitations of an article of manufacture comprising a medium having computer readable program code providing insurance for purchased digital content, and specifically, if the Examiner still feels that Newswire or Stefik teach the feature of transmitting a new copy of the *originally* purchased digital content, Applicants’ wish to emphasize that it is the duty of the Examiner to specifically point out limitations with respect to each and every claim element such that Applicants’ are aware of how the Examiner is applying a reference in a rejection. Specifically, §1.104(c)(2) of Title 37 of the Code of Federal Regulations and section 707 of the M.P.E.P. explicitly states that “the particular part relied on must be designated” and “the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified”.

**SUMMARY**

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of Applicants' presently claimed invention, nor renders them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this response has been timely filed, no request for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 09-0441.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact Applicants' representative at the below number.

Respectfully submitted,

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